

Internal Revenue Service

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LEGEND:

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Newco =

LLC 1 =

LLC 2 =

Newco LP =

PRS =

Other Sub 2 Assets =

=

=

=

=

$=$ $=$ $=$ $=$ $=$ $=$ $=$ $=$ $=$

State A

 $=$

State B

 $=$

Date 1

 $=$

Date 2

 $=$

Date 3 =

a =

b =

c =

d =

e =

f =

g =

h =

i =

i =

k =

l =

m =

Dear :

This letter responds to your authorized representative's letter dated January 8, 2007, requesting rulings on certain Federal income tax consequences of the series of proposed transactions described below (the "Proposed Transactions"). The information provided in that request and in later correspondence is summarized below.

The rulings contained in this letter are based upon facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

SUMMARY OF FACTS

Parent is a publicly traded corporation and the common parent of an affiliated group of corporations that files a consolidated Federal income tax return on a fiscal year basis. Parent wholly owns Sub 1, whose primary activity is the ownership of stock in subsidiaries and interests in partnerships and limited liability companies. Sub 1 wholly owns Sub 2. Sub 2 wholly owns LLC 1 and LLC 2, each of which is a limited liability company that is disregarded as separate from its owner for Federal tax purposes under § 301.7701-3 of the Procedure and Administration Regulations (a “disregarded entity”). Sub 2 also wholly owns eleven other corporations and three other disregarded entities (collectively, the “Other Sub 2 Assets”).

LLC 1 and LLC 2 own a and b percent, respectively, of Sub 4, a limited partnership that elected under § 301.7701-3(c) to be treated as an association taxable as a corporation for Federal tax purposes. The primary activity of Sub 4 is the ownership of stock in subsidiaries and a partnership interest in PRS. Sub 4 wholly owns Sub 3 and Sub 5. Sub 2, Sub 4, and Sub 3 own c, d, and e percent, respectively, of PRS, a general partnership.

Parent, Sub 1, Sub 2, Sub 3, Sub 4, and PRS also own stock in subsidiaries and interests in limited liability companies and partnerships that are not directly relevant to the Proposed Transactions.

At the time of the Proposed Transactions, Sub 2 will be indebted to Parent (the “Sub 2 Intercompany Debt”), and Sub 4 will be indebted to Parent (the “Sub 4 Intercompany Debt”). In addition to the Sub 2 Intercompany Debt and the Sub 4 Intercompany Debt, Parent anticipates that non-interest-bearing intercompany payables (i.e., intercompany accounts as opposed to intercompany debt) will exist between Parent and Sub 2 and between Parent and Sub 4 (each, an “Intercompany Account”). Any Intercompany Account will have arisen in the ordinary course of business.

PROPOSED TRANSACTIONS

Sub 1’s board of directors will adopt a formal restructuring plan (the “Restructuring Plan”) and the board of directors or similar governing body of each party to the Restructuring Plan will adopt and approve the necessary resolutions (including plans of liquidation and/or merger) to carry out the Proposed Transactions. The Restructuring Plan will be executed in two parts and will contain the following steps:

Restructuring – Part I

On Date 1, Part I will be completed in the following sequence:

- (1) Pursuant to the applicable laws of State A, Sub 1 will convert to Sub 1, LLC (“Sub 1 LLC”), a single member limited liability company that will be a disregarded entity (the “Sub 1 Liquidation”).
- (2) Sub 2 and Parent (through Sub 1 LLC) will adopt a formal plan of merger and, pursuant to the applicable laws of State A, Sub 2 will merge with and into Sub 1

LLC (the “Sub 2 Liquidation”). Sub 2 will file a Form 966 (Corporate Dissolution or Liquidation) with the Internal Revenue Service (the “Service”). As a result of the Sub 2 Liquidation, the Sub 2 Intercompany Debt and any Intercompany Account between Sub 2 and Parent will be eliminated for Federal income tax purposes.

- (3) LLC 2 and Parent (through Sub 1 LLC) will adopt a formal plan of merger and, pursuant to the applicable laws of State A and State B, LLC 2 will merge with and into Sub 1 LLC (the “LLC 2 Merger”).
- (4) Sub 1 LLC will form Newco to act as the managing partner of PRS. Sub 1 LLC will contribute to Newco an f-percent interest in PRS and the Other Sub 2 Assets received from Sub 2 in the Sub 2 Liquidation (representing approximately one to two percent of Sub 2’s total assets on a gross fair market value basis) (the “Newco Contribution”). In addition, the directors and officers of Sub 2 will become the directors and officers of Newco.
- (5) Sub 4 and Parent (through Sub 1 LLC and LLC 1) will adopt a 36-month plan of liquidation for Sub 4 and will file a Form 966 with the Service (the “Sub 4 Liquidation”).
- (6) Sub 4 will distribute a g-percent and an h-percent interest in PRS to LLC 1 and Sub 1 LLC, respectively, subject to a portion of the Sub 4 Intercompany Debt (the “First Liquidating Distribution”).
- (7) LLC 1 will distribute the g-percent interest in PRS received in the First Liquidating Distribution to Sub 1 LLC (the “LLC 1 Distribution”).
- (8) Parent (through Sub 1 LLC) and Newco will form Newco LP, a limited partnership. Sub 1 LLC, the limited partner, will be the a-percent partner and Newco, the general partner, will be the b-percent partner. Newco will contribute an i-percent interest in PRS received from Sub 1 LLC in the Newco Contribution, and Sub 1 LLC will contribute to Newco LP its entire j-percent interest in PRS (received in part from Sub 2 in the Sub 2 Liquidation and in part from LLC 1 in the LLC 1 Distribution) (the “First Newco LP Contribution”).

Restructuring – Part II

On Date 2, Part II will be completed in the following sequence:

- (9) At least 12 months after Restructuring—Part I is completed, Sub 4 will distribute its remaining assets (including the remaining k-percent interest in PRS and the stock of Sub 3, subject to any remaining Sub 4 Intercompany Debt) to LLC 1 and Sub 1 LLC in complete liquidation (the “Second Liquidating Distribution”). In the Second Liquidating Distribution, LLC 1 and Sub 1 LLC will receive an l-percent interest and an m-percent interest, respectively, in PRS. As a result of the Sub 4 Liquidation, the Sub 4 Intercompany Debt and any Intercompany Account between Sub 4 and Parent will be eliminated for Federal income tax purposes.

- (10) LLC 1 will merge with and into Sub 1 LLC (the “LLC 1 Merger”), giving Sub 1 LLC an aggregate k-percent interest in PRS.
- (11) Parent (through Sub 1 LLC) will contribute to Newco LP the aggregate k-percent interest in PRS (received in part from LLC 1 in the LLC 1 Merger and in part from Sub 4 in the Second Liquidating Distribution), and Newco will contribute to Newco LP an m-percent interest in PRS received in the Newco Contribution (the “Second Newco LP Contribution”).

REPRESENTATIONS

Sub 2 and Sub 4 Liquidations

Parent makes the following representation for both the Sub 2 Liquidation and the Sub 4 Liquidation:

- (a) Immediately before the Proposed Transactions, the adjusted basis of the Sub 2 Intercompany Debt, the Sub 4 Intercompany Debt, and any Intercompany Account will equal in each case such obligation’s adjusted issue price and fair market value. Consequently, the deemed satisfaction of each obligation for its fair market value will produce no gain or loss for Federal income tax purposes.

Sub 2 Liquidation

Parent makes the following representations regarding the Sub 2 Liquidation:

- (b) The Sub 1 Liquidation will qualify as a liquidation under § 332 of the Internal Revenue Code.
- (c) Parent (through Sub 1 LLC and after the Sub 1 Liquidation), on the date of adoption of the plan of merger, will be the owner of at least 80 percent of the single outstanding class of Sub 2 stock.
- (d) Sub 2 will cease to exist after the Sub 2 Liquidation.
- (e) No shares of Sub 2 stock will have been redeemed during the three years preceding the adoption of the plan of merger of Sub 2.
- (f) All distributions from Sub 2 to Parent pursuant to the plan of merger will be made within a single taxable year of Sub 2.
- (g) Pursuant to the plan of merger, for U.S. Federal income tax purposes, all of the stock of Sub 2 will be cancelled and Sub 2 will be dissolved.
- (h) Sub 2 will not retain any assets following the Sub 2 Liquidation.
- (i) Sub 2 will not have acquired assets in any nontaxable transaction at any time, except for the receipt of distributions of cash from investments in its subsidiaries and/or directly from PRS in the ordinary course of business and acquisitions occurring more than three years before the date of adoption of the plan of merger.
- (j) The f-percent interest in PRS and the Other Sub 2 Assets contributed to Newco in the Newco Contribution will represent approximately one to two percent of Sub 2’s

total gross assets on a fair market value basis immediately before the Sub 2 Liquidation.

- (k) No assets of Sub 2 have been or will be disposed of by Sub 2 or Parent (through Sub 1 LLC), except for (i) dispositions in the ordinary course of business, (ii) dispositions occurring more than three years before the adoption of the plan of merger, and (iii) dispositions occurring in the Newco Contribution.
- (l) Except for the Newco Contribution, the Sub 2 Liquidation will not be preceded by or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Sub 2, if persons holding, directly or indirectly, more than 20 percent in value of the stock of Sub 2 also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a) as modified by § 304(c)(3).
- (m) Before adoption of the plan of merger, no assets of Sub 2 will have been distributed in kind, transferred, or sold to Parent (through Sub 1 LLC), except for (i) transactions occurring in the normal course of business and (ii) transactions occurring more than three years before adoption of the merger plan.
- (n) Sub 2 will report all earned income represented by assets that will be distributed to Parent (through Sub 1 LLC), such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (o) The fair market value of the assets of Sub 2 will exceed its liabilities both at the date of the adoption of the plan of merger and immediately before the Sub 2 Liquidation. The total fair market value of the assets of Sub 2 transferred to Parent (through Sub 1 LLC) by Sub 2 will exceed the sum of (i) the amount of liabilities assumed by Parent (through Sub 1 LLC) and (ii) the amount of liabilities owed to Parent (through Sub 1 LLC).
- (p) Parent is not an organization that is exempt from Federal income tax under § 501 or any other provision of the Code.
- (q) All of the transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Sub 2 Liquidation have been fully disclosed.
- (r) The Newco Contribution will qualify as a § 351 exchange.
- (s) Sub 2 is neither a regulated investment company nor a real estate investment trust subject to § 332(c).
- (t) Parent and Sub 2 will timely comply with the reporting requirements of § 1.332-6T of the Income Tax Regulations and § 1.6043-1(a), and the waiver requirements of § 1.332-4(a)(2), applicable to the Sub 2 Liquidation.
- (u) Except for the Sub 2 Intercompany Debt and any Intercompany Account, there is no intercorporate debt existing between Parent and Sub 2, and none has been

cancelled, forgiven, or discounted, except for transactions that occurred more than three years before the date of adoption of the plan of merger.

Sub 4 Liquidation

Parent makes the following representations regarding the Sub 4 Liquidation:

- (v) Parent (through LLC 1 and Sub 1 LLC after the Sub 1 Liquidation, the Sub 2 Liquidation, and the LLC 1 Merger), on the date of adoption of the plan of liquidation, and at all times until the final liquidating distribution is completed, will be the owner of at least 80 percent of the single outstanding class of Sub 4 stock.
- (w) No shares of Sub 4 stock will have been redeemed during the three years preceding the adoption of the plan of complete liquidation of Sub 4.
- (x) Sub 4 will adopt a plan of liquidation specifying that the final liquidating distribution is to be completed within three years from the close of the taxable year of Sub 4 in which the First Liquidating Distribution is made.
- (y) As soon as the First Liquidating Distribution has been made, Sub 4 will cease to be a going concern and its activities will be limited to winding up its affairs, paying its debts, and distributing its remaining assets to Parent (through LLC 1 and Sub 1 LLC).
- (z) Pursuant to the plan of liquidation, for U.S. Federal income tax purposes, all stock of Sub 4 will be cancelled and Sub 4 will be dissolved.
- (aa) Sub 4 will not retain any assets following the final liquidating distribution.
- (bb) Sub 4 will not have acquired assets in any nontaxable transaction at any time, except for the receipt of distributions of cash from investments in its subsidiaries and/or directly from PRS in the ordinary course of business and acquisitions occurring more than three years before the date of adoption of the plan of liquidation.
- (cc) No assets of Sub 4 have been or will be disposed of by either Sub 4 or Parent (through LLC 1 or Sub 1 LLC), except for (i) dispositions in the ordinary course of business, and (ii) dispositions occurring more than three years before the adoption of the plan of liquidation.
- (dd) The liquidation of Sub 4 will not be preceded by or followed by the reincorporation in, or transfer or sale to, a recipient corporation ("Recipient") of any of the businesses or assets of Sub 4, if persons holding, directly or indirectly, more than 20 percent in value of the stock of Sub 4 also hold, directly or indirectly, more than 20 percent in value of the stock in Recipient. For purposes of this representation, ownership will be determined by application of the constructive ownership rules of § 318(a) as modified by § 304(c)(3).
- (ee) Before adoption of the plan of liquidation, no assets of Sub 4 will have been distributed in kind, transferred, or sold to Parent (through LLC 1 or Sub 1 LLC), except for (i) transactions occurring in the normal course of business and (ii)

transactions occurring more than three years before adoption of the liquidation plan.

- (ff) Sub 4 will report all earned income represented by assets that will be distributed to Parent (through LLC 1 and Sub 1 LLC), such as receivables being reported on a cash basis, unfinished construction contracts, commissions due, etc.
- (gg) The fair market value of the assets of Sub 4 will exceed its liabilities both at the date of the adoption of the plan of complete liquidation and immediately before the Sub 4 Liquidation. The total fair market value of the assets of Sub 4 transferred to Parent (through LLC 1 and Sub 1 LLC) by Sub 4 will exceed the sum of (i) the amount of liabilities assumed by Parent (through LLC 1 and Sub 1 LLC) and (ii) the amount of liabilities owed to Parent (through LLC 1 and Sub 1 LLC).
- (hh) Parent is not an organization that is exempt from Federal income tax under § 501 or any other provision of the Code.
- (ii) All of the transactions undertaken contemporaneously with, in anticipation of, in conjunction with, or in any way related to, the Sub 4 Liquidation have been fully disclosed.
- (jj) Sub 4 is neither a regulated investment company nor a real estate investment trust subject to § 332(c).
- (kk) Parent and Sub 4 will timely comply with the reporting requirements of § 1.332-6T and § 1.6043-1(a), and the waiver requirements of § 1.332-4(a)(2), applicable to the Sub 4 Liquidation.
- (ll) Except for the Sub 4 Intercompany Debt and any Intercompany Account, there is no intercorporate debt existing between Parent and Sub 4, and none has been cancelled, forgiven, or discounted, except for transactions that occurred more than three years before the date of adoption of the plan of liquidation.

Partnership Representations

Parent makes the following representations regarding the partnership aspects of the Proposed Transactions:

- (mm) The First Newco LP Contribution and the Second Newco LP Contribution will each qualify as a valid § 721(a) transaction.
- (nn) PRS is properly classified as a partnership for U.S. Federal tax purposes.
- (oo) No election under § 754 has been or will be made for any taxable year ending on or before the taxable year in which the First Liquidating Distribution and the Second Liquidating Distribution would be made pursuant to the Proposed Transactions.
- (pp) Except as described herein, no transfer of an interest in PRS will have occurred within twelve months of Date 1, the date of the First Liquidating Distribution, and the Sub 2 Liquidation. Except as described herein, no transfer of an interest in

PRS will occur from Date 2 until Date 3, a date that is more than twelve months after the Second Liquidating Distribution.

STATEMENT OF LAW

Section 708(a) provides that for purposes of subchapter K, an existing partnership will be considered as continuing if it is not terminated.

Section 708(b) provides that for purposes of § 708(a), a partnership will be considered as terminated only if (A) no part of any business, financial operation, or venture of the partnership continues to be carried on by any of its partners in a partnership, or (B) within a 12-month period there is a sale or exchange of 50 percent or more of the total interest in partnership capital and profits.

Section 1.708-1(b)(2) provides, in part, that 50 percent or more of the total interest in partnership capital and profits means 50 percent or more of the total interest in partnership capital plus 50 percent or more of the total interest in partnership profits.

Section 761(e) provides that, for purposes of § 708, any distribution of an interest in a partnership (not otherwise treated as an exchange) will be treated as an exchange.

RULINGS

Sub 2 Liquidation

Based solely on the information submitted and the representations set forth above, we rule as follows on the Sub 2 Liquidation:

- (1) The Sub 2 Liquidation will qualify as a distribution from Sub 2 to Parent in complete liquidation of Sub 2 under § 332.
- (2) Parent will not recognize any gain or loss on the Sub 2 Liquidation (§ 332(a)).
- (3) Sub 2 will not recognize any gain or loss on the Sub 2 Liquidation (§§ 336(d)(3) and 337(a)).
- (4) Except as provided in § 334(b)(1)(B) (which requires a fair market value basis under certain circumstances), Parent's basis in each asset received from Sub 2 in the Sub 2 Liquidation will equal the basis of that asset in the hands of Sub 2 immediately before the Sub 2 Liquidation (§ 334(b)(1)).
- (5) Parent's holding period in each asset received from Sub 2 in the Sub 2 Liquidation will include the period during which that asset was held by Sub 2 (§ 1223(2)).
- (6) Parent will succeed to and take into account the items of Sub 2 described in § 381(c), subject to the conditions and limitations specified in § 381, § 382, § 383, and § 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).
- (7) Except to the extent Sub 2's earnings and profits are reflected in Parent's earnings and profits, Parent will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 2 as of the date of the Sub 2 Liquidation (§§ 381(c)(2)(A), 1.381(c)(2)-1, and 1.1502-33(a)(2)). Any deficit in the earnings

and profits of Sub 2 can be used only to offset earnings and profits accumulated after the date of the Sub 2 Liquidation (§ 381(c)(2)(B)).

Sub 4 Liquidation

Based solely on the information submitted and the representations set forth above, we rule as follows on the Sub 4 Liquidation:

- (8) The First Liquidating Distribution and the Second Liquidating Distribution will qualify as distributions from Sub 4 to Parent in complete liquidation of Sub 4 under § 332.
- (9) Parent will not recognize any gain or loss on the Sub 4 Liquidation (§ 332(a)).
- (10) Sub 4 will not recognize any gain or loss on the Sub 4 Liquidation (§§ 336(d)(3) and 337(a)).
- (11) Except as provided in § 334(b)(1)(B) (which requires a fair market value basis under certain circumstances), Parent's basis in each asset received from Sub 4 in the Sub 4 Liquidation will equal the basis of that asset in the hands of Sub 4 immediately before the Sub 4 Liquidation (§ 334(b)(1)).
- (12) Parent's holding period in each asset received from Sub 4 in the Sub 4 Liquidation will include the period during which that asset was held by Sub 4 (§ 1223(2)).
- (13) Parent will succeed to and take into account the items of Sub 4 described in § 381(c), subject to the conditions and limitations specified in § 381, § 382, § 383, and § 384 and the regulations thereunder (§ 381(a) and § 1.381(a)-1).
- (14) Except to the extent Sub 4's earnings and profits are reflected in Parent's earnings and profits, Parent will succeed to and take into account the earnings and profits, or deficit in earnings and profits, of Sub 4 as of the date of the Sub 4 Liquidation (§§ 381(c)(2)(A), 1.381(c)(2)-1, and 1.1502-33(a)(2)). Any deficit in the earnings and profits of Sub 4 can be used only to offset earnings and profits accumulated after the date of the Sub 4 Liquidation (§ 381(c)(2)(B)).

Transfers of interest in PRS

- (15) The transfers of the interests (occurring on Date 1 and Date 2) in PRS in the Proposed Transactions will not result in a technical termination of PRS under § 708(b)(1)(B). Additional sales and exchanges of interest in PRS within the 12-month period before or after any of the above-described sales or exchanges of interest in PRS may terminate PRS under § 708(b)(1)(B).

CAVEATS

We express no opinion about the tax treatment of the Proposed Transactions under other provisions of the Code and regulations or on the tax treatment of any condition existing at the time of, or effects resulting from, the Proposed Transactions that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding:

- (i) Whether the Sub 1 Liquidation will qualify as a liquidation under § 332;

- (ii) Whether the Newco Contribution will qualify as a § 351 exchange;
- (iii) Whether PRS is properly classified as a partnership for Federal income tax purposes; and
- (iv) Whether any entity described as a disregarded entity actually qualifies as a disregarded entity under § 301.7701-3.

PROCEDURAL STATEMENTS

This ruling letter is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Lewis K Brickates
Branch Chief, Branch 4
Associate Chief Counsel (Corporate)